

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 IO-13 ACDA-07 DHA-02 TRSE-00 /081 W
-----103625 191746Z /50

R 191707Z AUG 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0774
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION USBERLIN
USMISSION NATO

C O N F I D E N T I A L SECTION 01 OF 02 BONN 13576

E.O. 11652: GDS
TAGS: PGOV, BQG
SUBJECT: BUNDESTAG QUESTION ON CONDUCT OF LORENZ
TRIAL

REFS: (A) BONN 13456 AND PREVIOUS (B) BONN 12843

BEGIN SUMMARY: FACED WITH A PROVOCATIVE QUESTION BY
A CSU MEMBER OF THE BUNDESTAG AS TO WHY THE LORENZ
TRIAL WILL BE CARRIED OUT BY THE BERLIN OFFICE OF THE
FEDERAL PROSECUTOR, THE FRG HAS PREPARED (AND SHOWN TO
US IN DRAFT) AN ANSWER WHICH WE FIND GENERALLY
ACCEPTABLE AND PERHAPS EVEN USEFUL. WE TOLD THE
FRG WE COULD NOT GIVE FORMAL APPROVAL OF THE ANSWER
BUT DID MAKE A LOW-KEY SUGGESTION FOR A MINOR CHANGE.
END SUMMARY

1. THE FOREIGN OFFICE PROVIDED US THE AFTERNOON OF
AUGUST 17 WITH THE TEXT OF TWO FORMAL QUESTIONS POSED
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BY THE CSU DEPUTY CARL-DIETER SPRANGER. WE WERE TOLD
THAT BUNDESTAG RULES REQUIRED AN ANSWER BY 12:00 P.M.
AUGUST 19. AS INDICATED BY PARAGRAPH 3(B) OF REF B,
THE QUESTION WAS POSED SOME DAYS AGO. AN INFORMAL
TRANSLATION FOLLOWS:

"QUESTION 31: WHY AND AT WHOSE DIRECTION IS THE

FEDERAL PROSECUTOR GENERAL (FPG) HAVING THE FEDERAL COURT PROSECUTION OF THE KIDNAPPERS OF THE HEAD OF THE BERLIN CDU CARRIED OUT NOT BY THE PRINCIPAL FEDERAL PROSECUTORS BUT BY FEDERAL PROSECUTORS THROUGH THE OFFICE OF THE FPG IN LAND BERLIN, WHICH OFFICE OTHERWISE CONDUCTS ONLY APPELLATE PROCEEDINGS. WILL THE TIES BETWEEN THE FEDERATION AND LAND BERLIN BE PREJUDICED BY THIS CONDUCT?

QUESTION 31A: IS THE FEDERAL GOVERNMENT OF THE VIEW THAT THE CONDUCT OF THE FPG APPROACHES THE POSITION OF THE SOVIETS AND THEIR FALSE INTERPRETATION OF THE QUADRIPARTITE AGREEMENT ON BERLIN AND, IF SO, HAS THIS BEEN CONSIDERED BY THE REGULATION IN QUESTION?"

2. WE WERE GIVEN THE TEXT OF THE DRAFT FRG REPLY THE MORNING OF AUGUST 18. AN INFORMAL TRANSLATION OF THE REPLY FOLLOWS:

BEGIN TEXT

IN THE CRIMINAL PROCEEDINGS IN CONNECTION WITH THE KIDNAPPING OF THE CDU POLITICIAN LORENZ, THE PROSECUTION IS REPRESENTED BY THE OFFICE OF THE FEDERAL PROSECUTOR IN ACCORDANCE WITH PARAGRAPH 142A SUBPARAGRAPH 1 GVG. THE QUESTION OF WHICH OFFICIALS OF

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THE OFFICE OF THE FEDERAL PROSECUTOR ARE CHARGED IN ANY PARTICULAR CASE WITH CONDUCTING THE INVESTIGATION AND THE PROSECUTION IN CRIMINAL MATTERS IS A QUESTION OF INTERNAL ORGANIZATION. THE NECESSARY DECISIONS ARE TAKEN BY THE FEDERAL PROSECUTOR GENERAL AFTER CONSCIENTIOUS CONSIDERATION, RESPECTING FULLY THE ALLIED RESERVATIONS RELATING TO THE ACTIVITIES OF THE OFFICE OF THE FEDERAL PROSECUTOR IN BERLIN. IN VIEW OF THE FACT THAT THE OFFICE OF THE FEDERAL PROSECUTOR HAS MAINTAINED A SPECIAL OFFICE IN BERLIN SINCE THE ESTABLISHMENT OF THE BUNDESGERICHTSHOF IN 1951, THE INVOLVEMENT OF THIS OFFICE IN THE PROSECUTION IN THE ABOVE-MENTIONED CRIMINAL PROCEEDINGS WAS THEREFORE INDICATED. THE INVOLVEMENT OF THE BERLIN OFFICE IS IN ACCORDANCE WITH THE EXPRESS WISHES OF THE THREE POWERS WHO EXERCISE SUPREME AUTHORITY IN BERLIN. THE OFFICE IS MOREOVER STAFFED TO MEET THE DEMANDS OF THE CASE.

I AM THEREFORE UNABLE TO ACKNOWLEDGE ANY PREJUDICE TO THE LINKS BETWEEN THE FEDERATION AND LAND BERLIN.

(IN ANSWER TO QUESTION 31A)

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C O N F I D E N T I A L SECTION 02 OF 02 BONN 13576

THE FEDERAL GOVERNMENT DOES NOT SHARE THE
CONCEPTION EXPRESSED IN THE QUESTION PUT.

END TEXT

3. WE HAVE NO PARTICULAR PROBLEM WITH THE ANSWER (IT
MIGHT EVEN BE USEFUL TO POINT TO IT IN CONVERSATIONS
WITH THE SOVIETS ON THE SUBJECT) AND, TAKING INTO
ACCOUNT THE LOCAL POLITICAL REALITIES, BELIEVE THE FRG
HAS DONE RATHER WELL BY US. WE BELIEVE (AND THE UK
EMBASSY FEELS THE SAME WAY) THAT IT WOULD BE INAPPRO-
PRIATE TO GIVE APPROVAL OF THE DRAFT ANSWER (NOR HAD
THE FOREIGN OFFICE SOUGHT SUCH AN ANSWER) WITHOUT
REFERENCE TO THE DEPARTMENT. IN ADDITION, WE DO NOT
BELIEVE THAT WE SHOULD ENGAGE IN SEEKING TO "CLEAR"
FRG ANSWERS TO BUNDESTAG QUESTIONS REGARDING BERLIN,
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PROVIDED THAT THERE IS NOTHING WHICH WE FIND EGREGIOUS THEREIN. WE HAVE EXPRESSED THIS VIEW TO THE FOREIGN OFFICE, WHILE THANKING THEM FOR THE OPPORTUNITY TO SEE THE PROPOSED ANSWER BEFORE IT IS DELIVERED. WE DID SUGGEST IN A LOW-KEY MANNER THAT THE FRG MIGHT WISH TO MOVE THE PENULTIMATE SENTENCE (WHICH BEGINS "THE INVOLVEMENT...") OF THE FIRST PARAGRAPH IN THE ANSWER TO QUESTION 31 UP TO FOLLOW THE THIRD SENTENCE (WHICH BEGINS "THE NECESSARY DECISIONS..."). BY SO DOING, THE REFERENCE TO THE WISHES OF THE THREE POWERS COULD BE READ AS REFERRING TO ALLIED LAW IN CONNECTION WITH THE TAKEOVER OF THE FRG LEGISLATION REGARDING THE ACTIVITIES OF THE FEDERAL PROSECUTOR RATHER THAN AS REFERRING TO CURRENT DISCUSSIONS IN THE BONN GROUP. WE UNDERSTAND THE BRITISH ALSO SUGGESTED, FOR THE SAME REASON, THAT THE WORD "EXPRESS" IN THE SAME SENTENCE BE DELETED.

4. WE WERE INFORMED BY THE FOREIGN OFFICE AT NOON TODAY THAT, FOR INTERNAL POLITICAL REASONS, THE FRG HAS CHOSEN NOT TO ACCEPT OUR SUGGESTION FOR MOVING THE PENULTIMATE SENTENCE SINCE IT WOULD APPEAR THAT THE FPG HAD NO DECISION-MAKING ROLE BUT WAS MERELY FOLLOWING ALLIED DIRECTIVES. THE WORD "EXPRESS" HAS BEEN DROPPED HOWEVER. AS A FINAL ENCOURAGING NOTE, WE WERE ALSO INFORMED THAT FRENCH BONN GROUP REP RICHARD INFORMED PARIS OF THE TEXT ON AUGUST 18 AND WAS TOLD THE QUAI HAD NO OBJECTION TO IT. STOESEL

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